

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

TCW CONSTRUCTION, INC.,

Plaintiff,

vs.

HOLMES, MURPHY & ASSOCIATES, INC.,  
and HOLMES, MURPHY & ASSOCIATES,  
LLC,

Defendants.

**4:17CV3162**

**AMENDED ORDER SETTING  
FINAL SCHEDULE FOR  
PROGRESSION OF CASE**

This matter is before the Court on the parties' Joint Stipulation to Extend Deadlines. ([Filing No. 30](#).) This motion is granted. Accordingly,

**IT IS ORDERED** that the provisions of the Court's earlier final progression order remain in effect, and in addition to those provisions, the following shall apply:

1. **Motion to Dismiss and Motions for Summary Judgment.** Motions to dismiss and/or for summary judgment shall be filed not later than **January 12, 2019**. See NECivR [56.1](#) and NECivR [7.1](#).

2. **Discovery Deadlines:**

- a. **Deposition Deadline.** All depositions, whether or not they are intended to be used at trial, shall be completed by **September 29, 2018**.
- b. **Written Discovery Deadline.** All interrogatories, requests for admission and requests for production or inspection, whether or not they are intended to be used at trial, shall be completed by **June 1, 2018**. Counsel may stipulate to extensions of time to respond to discovery requests in accordance with Fed. R. Civ. P. 29, but such extensions shall not extend any of the dates in this order; **any request to extend the deadlines of this order shall be sought by motion.**

3. **Disclosure of Expert Witnesses.**<sup>1</sup> Each plaintiff, counter-claimant, and cross-claimant shall identify expert witnesses by **October 30, 2018** and shall serve expert reports by **October 30, 2018**. Each Defendant, Counter-Defendant, and Cross-Defendant shall identify expert witnesses by **November 30, 2018**, and serve expert reports by **November 30, 2018**. If necessary to refute the disclosed opinions of an expert witness of an opponent, a plaintiff, counter-claimant, or cross-claimant may disclose additional expert witnesses not later than **December 17,**

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<sup>1</sup> A treating physician must be identified pursuant to Fed. R. Civ. P. 26(a)(2)(A), but a treating physician is not deemed to be "retained or specially employed to provide expert testimony in the case" so as to require a written report under Fed. R. Civ. P. 26(a)(2)(B).

**2018**, provided that the disclosing party then provides all of the information described in Fed. R. Civ. P. Rule 26(a)(2) and makes the expert witness available for deposition prior to the date set for completion of depositions. Supplementation of these disclosures, if originally made prior to these deadlines, shall be made on these deadlines as to any information for which supplementation is addressed in Fed. R. Civ. P. 26(e). The testimony of the expert at trial shall be limited to the information disclosed in accordance with this paragraph.

4. **Motions to Alter Dates.** All requests for changes of deadlines or settings established herein shall be directed to the assigned magistrate judge by appropriate motion, including all requests for changes of trial dates. Such motions shall not be considered in the absence of a showing by counsel of due diligence in the timely development of this case for trial and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

5. Upon the ruling on the Motion for Summary Judgment, the Court will schedule a telephone conference if necessary to further progress this case.

Dated this 2<sup>nd</sup> day of August, 2018.

BY THE COURT:

s/ Susan M. Bazis  
United States Magistrate Judge